

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Action No. 12-cv-03210-REB-BNB

ROBERT S. OLDS, and
BONNIE L. OLDS,

Plaintiffs,

v.

BANK OF AMERICA, N.A.,

Defendant.

**ORDER ADOPTING RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

Blackburn, J.

This matter is before me on (1) the **Defendant's Motion to Dismiss Plaintiffs' First Amended Complaint Pursuant to Fed. R. Civ. P. 12(b)(6)** [#18]¹ filed January 28, 2013; and (2) the corresponding **Recommendation of United States Magistrate Judge** [#23] filed June 20, 2013. I approve and adopt the recommendation and grant the motion to dismiss.

No objections to the recommendation were filed. Thus, I review it only for plain error. *See Morales-Fernandez v. Immigration & Naturalization Service*, 418 F.3d 1116, 1122 (10th Cir. 2005).²

In their complaint, the plaintiffs claim the defendant wrongfully caused the

¹ "[#18]" is an example of the convention I use to identify the docket number assigned to a specific paper by the court's case management and electronic case filing system (CM/ECF). I use this convention throughout this order.

² This standard pertains even though plaintiff is proceeding *pro se* in this matter. *Morales-Fernandez*, 418 F.3d at 1122.

foreclosure sale of the plaintiffs' property while the defendant and its agents continued to give the plaintiffs reason to believe the loan on plaintiffs' property was being reviewed for a loan modification. As detailed in the recommendation [#18], the plaintiffs' allegations do not state any claim on which relief can be granted. As a result, the plaintiff's complaint must be dismissed. The plaintiffs already have amended their complaint once, and they have not sought to file another amended complaint. Thus, I conclude that this case should be dismissed and closed.

The conclusions and recommendation of the magistrate judge are correct. Finding no error, much less plain error, in the disposition recommended by the magistrate judge, I find and conclude that the recommendation should be approved and adopted as an order of this court.

THEREFORE, IT IS ORDERED as follows:

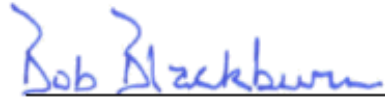
1. That the **Recommendation of United States Magistrate Judge** [#23] filed June 20, 2013, is **APPROVED** and **ADOPTED** as an order of this court;
2. That the **Defendant's Motion to Dismiss Plaintiffs' First Amended Complaint Pursuant to Fed. R. Civ. P. 12(b)(6)** [#18] filed January 28, 2013, is **GRANTED**;
3. That under FED. R. CIV. P. 12(b)(6), the plaintiffs' amended complaint [#14] is **DISMISSED** without prejudice;
4. That judgment **SHALL ENTER** in favor of the defendant, Bank of America NA, against the plaintiffs, Robert S. Olds, and Bonnie L. Olds, jointly and severally, on all claims for relief and causes of action asserted in this case;
5. That the defendant is **AWARDED** its costs to be taxed by the clerk of the court in the time and manner prescribed by Fed. R. Civ. P. 54(d)(1) and

D.C.COLO.LCivR 54.1; and

6. That this case is **CLOSED**.

Dated September 11, 2013, at Denver, Colorado.

BY THE COURT:

A handwritten signature in blue ink that reads "Rob Blackburn". The signature is written in a cursive, flowing style.

Robert E. Blackburn
United States District Judge